

The Honorable Richard A. Jones

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, President of the United  
States, *et al.*,

Defendants.

**No. 2:17-cv-00094-RAJ**

**RESPONSE TO PLAINTIFFS' MOTION  
TO SEAL EXHIBITS TO THE  
DECLARATION IN SUPPORT OF  
PLAINTIFFS' MOTION TO COMPEL**

Defendants do not oppose Plaintiffs' Motion to Seal and ask the Court to grant it. *See* Dkt. 311.

**LEGAL STANDARD**

The strong presumption of public access to court records ordinarily requires the moving party to provide compelling reasons to seal a document. *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). But, the less onerous "good cause" standard applies to "sealed materials attached to a discovery motion unrelated to the merits of a case." *Ctr. for Auto Safety, v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016). Here, the good cause standard applies because the sealed materials are related to Plaintiffs' Motion to

1 Compel, Dkt. 312, which is a non-dispositive discovery-related motion. *See Ctr. for Auto Safety*,  
 2 809 F.3d at 1097.

3 Under this Court's Local Rules, a motion to seal a document must include the following:

4 (A) a certification that the party has met and conferred with all other parties in an  
 5 attempt to reach agreement on the need to file the document under seal, to  
 6 minimize the amount of material filed under seal, and to explore redaction  
 and other alternatives to filing under seal; this certification must list the date,  
 manner, and participants of the conference;

7 (B) a specific statement of the applicable legal standard and the reasons for  
 keeping a document under seal, including an explanation of:

- 8 i. the legitimate private or public interests that warrant the relief sought;
- 9 ii. the injury that will result if the relief sought is not granted; and
- iii. why a less restrictive alternative to the relief sought is not sufficient.

10 LCR 5(g)(3). Furthermore, where the parties have entered a stipulated protective order  
 11 governing the exchange in discovery of documents that a party deems confidential, a  
 12 party wishing to file a confidential document it obtained from another party in discovery  
 13 may file a motion to seal but need not satisfy subpart (3)(B) above. *Id.* Instead, the party  
 14 who designated the document confidential must satisfy subpart (3)(B) in its response to  
 15 the motion to seal or in a stipulated motion. *Id.*

### 16 ARGUMENT

17 Here, Exhibit 1 contains a list of titles of documents produced by Defendants in  
 18 discovery, and Exhibits 2 and 3 are excerpts from documents produced in discovery subject to  
 19 the existing Protective Order. Dkt. 314; *see also* Dkt. 86 (Stipulated Protective Order). These  
 20 three Exhibits satisfy the requirements of Local Rule 5(g)(3)(B) and hence should remain filed  
 21 under seal. Exhibit 1 contains general information regarding USCIS' vetting practices, including  
 22 database information, and Exhibits 2 and 3 are training documents created by USCIS to train  
 23 officers who vet and adjudicate applications pursuant to CARRP policy. The documents contain

1 sensitive but unclassified information about how USCIS officers investigate and vet national  
2 security to maintain the integrity of the legal immigration system and combat fraud, criminal  
3 activity, and other threats to public safety and national security. Disclosure of this information  
4 could cause nefarious individuals to modify their behavior and thereby avoid detection. These  
5 documents should remain under seal because USCIS has a legitimate interest in protecting  
6 against their release, and public release could cause injury. For these same reasons, there are no  
7 less restrictive alternatives than keeping the documents under seal.

8         Nevertheless, as provided under LCR 5(g)(6), because the Plaintiffs' motion to seal  
9 pertains in part to the foregoing three exhibits produced by the Government under a protective  
10 order, should the Court deny the motion to seal as to these three documents, Defendants request  
11 that "the court withdraw the document[s] from the record rather than unseal [them]." LCR  
12 5(g)(6) (noting that a response to a motion to seal may request this alternative remedy for  
13 preserving the status quo).

Dated: January 21, 2020

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 21, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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